

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS

2011 APR -7 AM 10: 52

CLERK US DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

HEALTHCARE ADVOCATES, ET AL.

§

CIVIL ACTION NO. 1:11-MC-00136-SS

vs.

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§

§

AFFORDABLE HEALTHCARE OPTIONS, ET AL.

§

BY

DEPUTY

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**ORDER GRANTING PLAINTIFFS' APPLICATION FOR TURNOVER RELIEF**

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On this day came to be considered Plaintiffs' Application for Turnover Relief. After taking judicial notice of the filings in this matter and the judgments in cause number 1:11-MC-00136-UA, the Court having considered the Application, the proffered evidence, and the arguments of counsel, finds and orders as follows:

The Court finds that Plaintiffs possess a judgment against Affordable Healthcare Options; Maternity Advantage, a/k/a Maternity Savings and Maternity Advocates; Reproductive Access Solutions; Maternity Health; NBSG, LLC d/b/a PregnancyReportNow.com; and American Maternity Association (hereinafter, "AHCO"), totaling \$107,350.00. These judgments are final, valid, subsisting and remain wholly unsatisfied.

The Court finds that the property identified by Plaintiffs—the AHCO Software Materials, which includes all AHCO-owned, copyrighted software, databases of provider information, and any other copyrighted material—cannot be attached or levied on by normal legal process and is not exempt from attachment, execution, or seizure.

The Court finds that Plaintiffs have established there is a likelihood of assets owned by AHCO, which are subject to post-judgment collection, are located at the homes of AHCO's directors: Aaron C. Bouren, 9901 Brodie Lane, Apt. 16020, Austin, Texas 78748; Brian J. McDonald, 106 Confidence Cove, Lakeway, Texas 78734.

The Court accordingly, ORDERS, ADJUDGES AND DECREES that counsel for Plaintiffs, Matthew Mitzner or Cleveland Burke of Thompson and Knight, LLP, shall seize and secure the AHCO Software Materials, which are located at the homes of AHCO's directors: Aaron C. Bouren, 9901 Brodie Lane, Apt. 16020, Austin, Texas 78748; Brian J. McDonald, 106 Confidence Cove, Lakeway, Texas 78734. AHCO's directors or AHCO's Counsel shall turn the AHCO Software Materials over to a Travis County Sheriff or Constable or a police officer from the Austin or Lakeway police departments in an electronic form, either through disc or other electronic information transfer technology at the agreement of the parties, by 5:00 p.m. on April 29, 2011.

The Court further ORDERS Brian McDonald and Aaron Bouren, on behalf of AHCO, to stop all other dissemination or use of the AHCO Software Materials and related proprietary AHCO materials.

The Court further ORDERS Brian McDonald and Aaron Bouren, on behalf of AHCO, to turn over all non-exempt AHCO property that is in ~~AHCO's~~ <sup>their</sup> control, ~~or is subject to AHCO's~~ control. SA

The Court further ORDERS that Brian McDonald and Aaron Bouren, on behalf of AHCO, ~~to provide to the Court and Plaintiffs by 5:00 p.m. April 29, 2011~~ <sup>present themselves in this</sup> ~~on~~ <sup>at 2pm with</sup> a sworn, detailed schedule of the following: SA

- (i) any remaining AHCO property that it owns, possesses, or controls;
- (ii) to the extent that AHCO remains in ownership or possession of a property, a description sufficient to identify it, its location, and any liens against such assets;
- (iii) all property transferred within 90 days of AHCO's
  - (a) insolvency, or
  - (b) winding up;

(iv) to the extent that AHCO property was otherwise transferred within 90 days of insolvency or winding up, a detailed description sufficient to identify it, its location, and any liens against such assets, as well as a description sufficient to identify the person or entity to whom it was transferred, the date it was transferred, and the consideration exchanged for the same; and

(v) or all property described pursuant to the order above, a description of the price paid for each assets, its fair market value (and method of determination), and to the extent a lien exists on any asset, AHCO shall provide a copy of papers evidencing such lien.

The Court further ORDERS Brian McDonald and Aaron Bouren, on behalf of AHCO, to provide an affidavit of lost certificate for any of the AHCO Software Materials that cannot be located.

The Court further ORDERS Brian McDonald and Aaron Bouren, on behalf of AHCO, to identify in a schedule by 5:00 p.m. April 18, 2011 all AHCO property that AHCO claims is exempt from seizure under Texas Property Code sections 42.001 and 42.002. AHCO shall make all such items available for inspection by Applicants and Applicants' appraisers at a mutually-agreeable place from 5:00 p.m. on ~~May 2, 2011 to 5:00 p.m. on May 4, 2011.~~ *by April 28, 2011.*

*The Court further ORDERS Matthew Mitzer to serve a*  
~~The Court further ORDERS Brian McDonald and Aaron Bouren, on behalf of AHCO, to provide any document necessary to effect a transfer of the AHCO Software Materials by 5:00 p.m. on April 29, 2011.~~ *copy of this order on Brian McDonald and Aaron Bouren requesting them to comply and be in attendance in courtroom*

*no. 2, United States Courthouse, 200 W. 8<sup>th</sup>, Austin, Texas at 2:00 pm on April 29, 2011.*  
~~The Court further ORDERS Brian McDonald and Aaron Bouren, on behalf of AHCO, to produce all documents pertaining to AHCO ownership or interests for the final year of its existence to ensure AHCO's obedience and compliance with this Order.~~


~~The Court further ORDERS Brian McDonald and Aaron Bouren, on behalf of AHCO, to turn over all pieces and portions of the AHCO property described above to the Travis County Sheriff or Constable or police officer of the Austin or Lakeway police departments, by 5:00 p.m. April 29, 2011, or, alternatively, order that the Travis County Sheriff or Constable or police~~

~~officer of the Austin or Lakeway police departments be granted permission to enter AHCO directors' homes and any other locations containing AHCO property and levy any AHCO non-exempt property.~~

The Court further ORDERS that counsel for Plaintiffs is empowered to seek the assistance of the Austin Police Department, the Lakeway Police Department, the Travis County Sheriff's Office, and/or the Travis County Constables to enforce the Court's Order. Any police officer, sheriff or constable within the State of Texas receiving a copy of this Order is directed to assist Cleveland Burke or Matthew Mitzner in seizing and securing the AHCO Software Materials as ordered herein as directed by counsel. ~~Counsel for Plaintiffs shall have all legal process necessary, including the possibility of contempt, to enforce this Order.~~

~~The Court further ORDERS that the Applicants receive their reasonable attorney's fees in the amount of \$12,152.00 pursuant to Texas Civil Practice and Remedies Code § 31.002(e) and David R. Noteware's Declaration.~~

Signed the 7<sup>th</sup> day of April, 2011

  
Honorable Judge of this Court